



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO.14682 OF 2025

MANIKCHAND LAXMANDAS SHRISHRIMAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. B.V. Thombre, Advocate for petitioners

Mr. A.M. Phule, AGP for respondent Nos.1 and 3 to 5

...

CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 17th JANUARY, 2026

ORDER :

. Present petition has been filed for following reliefs :

“(B) By issuing Writ in the nature of Certiorari or any other appropriate Writ, like nature or any of the direction or order the ward no.13 formed by the State Election Commission in Sy.No.374 and 377 in encroached plots in Majalgaon Town, Dist. Beed may kindly be quashed and set aside.

(C) By issuing Writ in the nature of Mandamus or any other appropriate Writ, like nature or any of the direction or order to the Municipal Council, Majalgaon to decide representations dated

15.12.2005, 19.08.2013, 18.01.2014, 08.07.2020, 06.06.2022, 01.03.2023, 21.03.2023, 05.04.2023, 18.04.2023, 04.05.2023, 07.03.2025, 17.03.2025, 20.06.2025, 10.07.2025, 18.07.2025 and 07.08.2025 in the light of Sections 52, 53, 54 with 152 of the Maharashtra Regional and Town Planning Act, 1966 and on the basis of inspection report dated 19.08.2013, 30.08.2013, 16.03.2016, 18.12.2019 and 02.03.2023.”

2 Heard learned Advocate for petitioners. Petitioners contend that they are the owners of Sy.Nos.374 and 377 situated in Majalgaon town. It is their ancestral land. They had applied for NA permission to Collector, Beed regarding the Sy.No.377 for the purpose of residential and commercial purpose. Accordingly, the permission was granted. Thereafter, they had also filed application for NA permission in respect of Sy.No.374 for the purpose of residential purpose, which came to be granted by order dated 13.05.1985 and March, 1993. According to them, they have paid NA taxes. Further, contention of petitioners is that they had made 17 representations to respondent No.6 and then legal notice was issued. It was stated that about 40-50 plots belonging to petitioners in Sy.No.374 and 377 have been encroached upon and the encroachers have given name to the encroached area as ‘Azad Nagar’. Illegal RCC construction has been made in the same. Again two representations came to be made on 25.10.2021 to Collector, Beed

for removal of encroachment of the persons from their ancestral land. The petitioners contend that when they had resisted upon the encroachment, those persons had abused the petitioners and threatened them to kill. The petitioners contend that the encroachers are belonging to Scheduled Castes and the Scheduled Tribes and Muslim community and, therefore, petitioners are under fear and unable to oppose the encroachment directly and physically. According to petitioners, two of the encroachers have filed criminal cases under the Atrocities Act against the petitioners. Police are not taking cognizance of the complaint made by petitioners. Now, the written complaints have been made since 2015 by petitioners to the Collector, however, no effective steps have been taken. Hence, the petitions have approached this Court.

3 The learned Advocate for petitioners have taken us through the documents and submits that to some extent the action was taken by respondent authorities by issuing notices, however, no further action has been taken. The statutory authority is duty bound to take action under Sections 52, 53, 55 with 152 of the M.R.T.P. Act against the encroachers, but the authorities are not taking the action.

4 The first and the foremost fact that is required to be considered

here is the total inaction on the part of petitioners to move the Court or legal remedy swiftly. Mere representations to the statutory authorities is not sufficient enough. It is the ancestral land that has been claimed by petitioners on which the encroachment is alleged to have been made. They are the protector of their own property and, therefore, it is expected that one should approach the Court of Law immediately upon arising of cause of action. In the entire pleadings as well as in the documents it is not clarified as to who has made encroachment, to what extent and when. Now, taking into consideration the pleadings that respondent No.6 had issued notice dated 19.08.2013, we may afraid that there would be a point of adverse possession. Further, the alleged encroachers are not party to the present petition and, therefore, we take that this is not a fit case where we should exercise our powers under Article 226 of the Constitution of India. Petition stands dismissed.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

agd